

REMARKS/ARGUMENTS

Claims 1-4, 6-8, 19, 21-25 and 27-34 are pending in the application. Claims 5, 9-18, 20 and 26 were previously cancelled. Through this Response, claims 1-4, 6-8, 19, 21-25 and 27-34 are amended. As explained in more detail below, Applicants submit that pending claims 1-4, 6-8, 19, 21-25 and 27-34 are in condition for allowance and respectfully request such action.

Rejections under 35 U.S.C. 103

Claims 1-3, 19 and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Viswanathan (US 5936659) in view of Ueno (US 6438596). Applicants respectfully traverse the rejection in view of the Remarks below.

Viswanathan does not disclose the subject matter of independent claims 1 and 19. Specifically, independent claim 1 as presented herein, recites:

[a] manager, [that] *in response to* a frequently requested video asset becoming infrequently requested, is configured *to select and transmit* the infrequently requested video asset to at least one secondary partition of at least one server.

(emphasis added; *see also* independent claim 19, which is a method reciting: *in response to* an infrequently requested video asset becoming frequently requested, *selecting and transmitting* the frequently requested video asset to at least one primary partition of at least one server; emphasis added).

The Office Action asserts that “Viswanathan teaches a video server in which movies are loaded into different tiers (partitions) based on their popularity. Once a movie’s popularity changes, it is shifted between partitions (col. 2, lines 24-45).” (Office Action dated December 22, 2009, page 2). Applicants respectfully disagree with the Office’s interpretation. Specifically, when describing the three-tiered system, Viswanathan expressly states that “it would be appropriate to load [the movie] onto the hard drives in tier 2 *in anticipation of the increase in requests*.” (Viswanathan, Col. 2, lines 42-43, emphasis added). Thus, transferring of any movies between the tiers of Viswanathan is not “in response to...becoming frequently [or infrequently] requested,” as

recited in independent claims 1 and 19, but rather based upon anticipated requests. In this regard, it appears that the Office Action is asserting that Viswanathan looks to past demand. Even assuming this interpretation is correct, which Applicants do not acquiesce, looking back in time to past demand of a video asset is not the same as, nor is it equivalent to, looking forward in time to react to threshold limits. Applicants, therefore, respectfully disagree with the Examiner's assertion that Viswanathan's system "transfers a movie between the tiers based on the number of user requests, [and, therefore] the asset and threshold rates are inherently tracked" as set forth at page 2 of the Office Action.

For at least this reason, Applicants respectfully submit that Viswanathan does not teach, disclose, or suggest the subject matter of independent claims 1 and 19. The deficiencies of Viswanathan, namely the lack of any teaching, disclosure, or suggestion of the recited transfer of video assets "in response to...becoming frequently [or infrequently] requested" are not cured by Ueno, the secondary reference, or any other art of record.

Therefore, claims 1 and 19 are allowable. Claims 2-3 and 21 ultimately depend from claims 1 or 19, and are allowable for at least the same rationale. Applicants further respectfully submit that the claims 2-3 and 21 are also allowable for the novel limitations recited therein. Applicants therefore, respectfully request reconsideration and withdrawal of the rejection in regards to claims 1-3, 19 and 21.

Further, Viswanathan also does not teach, disclose or suggest "select[ing] and transmit[ing] the frequently requested video asset to at least one primary partition of at least one server" as recited in independent claims 1 and 19. Rather, the cited passage of Viswanathan teaches away from selecting a server, but instead teaches the use of a single three-tiered video server. For at least this reason, Applicants respectfully submit that Viswanathan does not teach, disclose, or suggest the subject matter of independent claims 1 and 19 and that neither Ueno, the secondary reference, nor any other art of record, cure the deficiencies of Viswanathan. Therefore, claims 1 and 19 are allowable. Claims 2-3 and 21 ultimately depend from claims 1 or 19, and are allowable for at least the same rationale. Applicants further respectfully submit that the claims 2-3 and 21 are also allowable for the novel limitations recited therein. Applicants therefore, respectfully

request reconsideration and withdrawal of the rejection in regards to claims 1-3, 19 and 21.

Claims 4, 7-8, 22-25 and 28-34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Viswanathan and Ueno in view of Sato (US 6173328). Applicants respectfully traverse the rejection and request reconsideration in view of the Remarks below.

As discussed immediately above, neither Viswanathan nor Ueno, considered individually or in combination, teach, disclose, or suggest the subject matter of independent claims 1 and 19. Applicants respectfully submit that Sato does not cure the deficiencies of Viswanathan and/or Ueno. Therefore, for at least the same reasons, claims 4, 7-8 and 22-24 are not taught, disclosed or suggested by Viswanathan and Ueno in view of Sato. Applicants further respectfully submit that the claims 4, 7-8 and 22-24 are also allowable for the novel limitations recited therein.

Regarding independent claim 25, the claim recites a manager that “in response to an infrequently requested video asset becoming frequently requested, is configured to select and transmit the frequently requested video asset to at least one primary partition of at least one server.” As discussed above in relation to claims 1 and 19, this element is entirely missing from Viswanathan and Ueno. Applicants respectfully submit that neither Sato nor any other art of record, either individually or in combination, cures this deficiency. Claims 28-34 depend from independent claim 25 and, therefore, are allowable for at least the same reason. Applicants further respectfully submit that claims 28-34 are also allowable for the novel limitations recited therein.

Claims 6 and 27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Viswanathan, Ueno and Sato as applied to claim 1 above, and further in view of Starnes (US 6510469). Applicants respectfully traverse the rejection, and therefore, respectfully request reconsideration and withdrawal of the rejection.

Claim 6 recites, *inter alia*, “a content manager of a local server ***at which a video asset request is received.***” Claim 6 depends from claim 4, which further elaborates that the content manager is “configured to receive the request for the video asset and

determine whether *the requested video asset* is stored locally in the storage medium of *that local server at which the video asset request is received* or stored remotely in the storage of the remote server.” (emphasis added). Similarly, claim 27 recites that “the content manager, in response to determining that the requested video asset is stored locally, is configured to notify the stream session manager to deliver the requested video asset to a local server for transmission by the local server to the requesting user equipment.” In this regard, the Office Action alleges that:

Starnes discloses in response to determining that a file requested by the browser is stored locally, the proxy server notifies the acceleration server to deliver the file to the proxy server for transmission to the browser via the network (col. 5, lines 30-53, col. 6, lines 27-48).

(Office Action dated December 22, 2009, page 13). Applicants respectfully disagree that the cited passages teach, disclose, or suggest the subject matter of the rejected claims. Starnes discloses two alternative methods for retrieving data, and expressly states that:

In either of these cases, the data returned to the browser 104 in response to the request for data will not only be locally available but also *be reduced in size* (e.g. reduced file size). Both of these features contribute to the ability of the proxy system 100 to significantly improve the response time in which the requested data can be delivered to the browser 104. Accordingly, the proxy server 102 acting together with the acceleration server 110 is able to accelerate the delivery of the requested data to the user of the browser 104 that has made the request.

(Starnes, lines 43-53, emphasis added; *see also* Col 7, lines 21-25 of Starnes, which states “given that the *accelerated versions have a smaller size*, the accelerated versions can be transmitted to browsers 103 in a reduced amount of time.”) (emphasis added.)). In this regard, the partial data obtained from the acceleration server is not the same as the requested data. As set forth in Starnes Summary of the Invention section of Starnes:

Another advantage of the invention is that accelerated versions of content information are produced and cached locally so that content servers need not concern themselves with *offering and supporting multiple versions* of the content provided on their content servers.

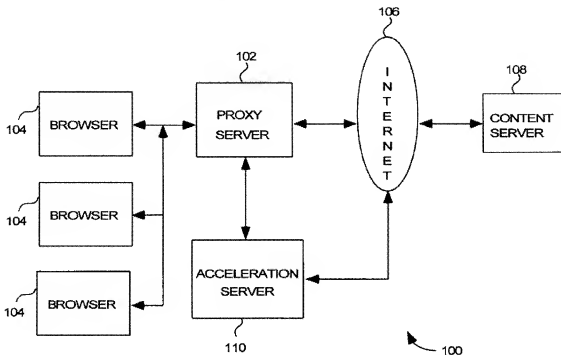
(Starnes 3, Col. Lines, 61-65, emphasis added). While Starnes does mention that non-accelerated versions of the partial data may be stored locally, such retrievals are performed as “pre-fetch” operations. In this regard, the Office Action equates the

requested HTML documents taught in Starnes with the “video asset” recited in the rejected claims. Applicants respectfully submit that if the HTML files disclosed by Starnes are interpreted by the Office as being equivalent to the “video asset(s)” recited in the claims, then Starnes cannot teach the recited elements of the rejected claims. Specifically, as stated in Starnes, “[t]he requesting of the images here is referred to as a pre-fetch for the images because the browser 104 has not yet made the request for the same images.” (Col. 8, lines 25-29). This is relevant for at least two reasons. First, Starnes “pre-fetching” methods could not “**receive the request** for the video asset **and determine whether the requested video asset** is stored locally in the storage medium of **that local server at which the video asset request is received** or stored remotely in the storage of the remote server” as recited in claim 4, from which claim 6 depends from.

Moreover, even when such data is prefetched, the requested HTML document is never available from a local storage device. Rather, the HTML document of Starnes must be retrieved from a remote storage device before it can be determined whether a portion of the objects within the HTML document are available elsewhere. Therefore there can be no teaching, disclosure, or suggestion of at least “determining that a requested video asset is stored locally, is configured to notify the stream session manager to deliver the requested video asset to the local server for transmission by the local server to the requesting user equipment via the access network.” Specifically, the requested HTML document disclosed throughout Starnes is first retrieved from the remote content server. This remains the case for pre-fetch operations. Only then is the HTML document processed to determine if certain objects of the HTML document (such as images) may be obtained from local storage devices. Specifically, as disclosed in the context of FIG. 1 (reproduced below), Starnes teaches:

The requesting of the images here is referred to as a pre-fetch for the images because the browser 104 has not yet made the request for the same images. **More particularly, the HTML document provided by the content server 108 is obtained by the proxy server 102, 200, and the proxy server 102, 202 not only forwards the HTML document to the requesting browser 104 but also processes the HTML document in the proxy filter 206 and the observer 210, 300 to identify images. Hence, it is these identified images that can be pre-fetched by the image manager 306 before the requesting browser makes the request for the images it identifies in the HTML document.**

(Starnes, Col. 8, lines 14-29, emphasis added).



Thus, the requested asset (the “HTML document”) must always be first retrieved from the remote storage. In view of the foregoing, Applicants respectfully submit that claims 6 and 27 are not taught, disclosed, or suggested by Ueno, Ong, or Sato, or any other art of record, either individually or in combination. Applicants, therefore, respectfully request reconsideration and withdrawal of the rejection.

CONCLUSION


All rejections having been addressed, applicant respectfully submits that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same. Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the number set forth below.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated: March 22, 2010

By:

 Reg. 55,597
Shawn P. Gorman
Reg. No. 56,197

BANNER & WITCOFF, LTD.
10 South Wacker Drive
Suite 3000
Chicago, IL 60606
Tel: (312) 463-5000
Fax: (312) 463-5001